

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Mitsubishi Tanabe Pharma Corporation
2-6-18, Kitahama, Chuo-ku, Osaka-shi,
Osaka 541-8505, Japan

Plaintiff,

v.

HON. David J. Kappos
Under Secretary of Commerce for Intellectual
Property and Director of the United States
Patent and Trademark Office
Madison Building
600 Dulany Street
Alexandria, Virginia 22314

Civil Action No. 10-cv-00129

PROPOSED ORDER

Upon consideration of Defendant's consent motion to remand the case to the United States Patent and Trademark Office ("USPTO"), and the entire record herein, it is hereby

ORDERED that the motion is GRANTED; it is further

ORDERED that defendant's current patent-term calculation for United States Patent No. 7,566,728 is hereby VACATED; and it is further

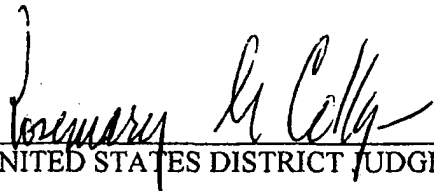
ORDERED that the remand is limited to the PTO recalculation of the PTA in accordance with (1) the decision of the United States Court of Appeals for the Federal Circuit in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, __ F.3d __, 2010 WL 27184 (Fed. Cir. Jan. 7, 2010) and the subsequent notice in the Federal Register entitled "Interim Procedure for Patentees To Request a Recalculation of the Patent Term Adjustment To Comply With the Federal Circuit Decision in Wyeth v. Kappos Regarding the

Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)." 75 Fed. Reg. 5043-5045, 2010 WL 334297 (F.R.) and (2) the Notice Concerning Calculation of the Patent Term Adjustment under 35 U.S.C. § 154 (b)(1)(B) involving International Applications Entering the National Stage Pursuant to 35 U.S.C. § 371 (USPTO Notice, October 6, 2009, 1347 OG 49); and it is further

ORDERED that Plaintiff reserves all of its substantive and procedural rights for the relief requested in the original complaint; and

ORDERED that Plaintiff reserves the right to have the court review any decision on remand made by the PTO.

9 April 2010


UNITED STATES DISTRICT JUDGE